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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-1879

JAMIE LYNN TERRY
1424 Ashwood Drive
Martinez, CA 94553

A C C U S A T I O N

Vocational Nursing License No. VN 200425

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about July 25, 2002, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nursing License Number VN 200425 to Jamie Lynn Terry (Respondent). The Vocational Nursing License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2008, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, pursuant to the following laws. All references are to the Business and Professions Code (Code) except where indicated.

1 10. Health and Safety Code section 11173, subdivision (a), provides that no
2 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
3 the administration of or prescription for controlled substances, (1) by fraud, deceit,
4 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

5 11. Health and Safety Code section 11350, in pertinent part, makes it unlawful
6 to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055),
7 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

8 12. Health and Safety Code section 11550, in pertinent part, makes it unlawful
9 for any person to use or be under the influence of any controlled substance in Schedule II (Health
10 and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V,
11 except when administered by or under the direction of an authorized licensee.

12 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

13 13. Section 4021 of the Code states:

14 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
15 with Section 11053) of Division 10 of the Health and Safety Code.”

16 14. Section 4022 of the Code states, in pertinent part:

17 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
18 self-use, except veterinary drugs that are labeled as such, and includes the following:

19 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
20 without prescription,’ ‘Rx only,’ or words of similar import.

21 ...

22 “(c) Any other drug or device that by federal or state law can be lawfully
23 dispensed only on prescription or furnished pursuant to Section 4006.”

24 15. **Vicodin, Norco and Lortab** are among the brand names for compounds of
25 varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled
26 substance as designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as
27 designated by Business and Professions Code section 4022. In generic form, these drugs may
28 also be known as **hydrocodone with APAP**. These are narcotic analgesic drugs.

1 COST RECOVERY

2 16. Section 125.3 of the Code provides, in pertinent part, that the Board may
3 request the administrative law judge to direct a licensee found to have committed a violation of
4 the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

5 FACTUAL BACKGROUND

6 17. On or about March 10, 2007, Respondent was working as an LVN at the
7 Care Center of Rossmoor (a senior care nursing home) in Walnut Creek, California.

8 18. On that date, Walnut Creek Police responded to a report that Respondent
9 may have taken/stolen **Vicodin (hydrocodone with APAP)** from the emergency supplies of the
10 Care Center. The responding officer(s) contacted Respondent, who admitted that at that time she
11 had no valid prescription(s) for **Vicodin (or hydrocodone)**. The responding officer(s) searched
12 Respondent's handbag/purse and discovered therein a small square plastic medication box like
13 those maintained in the Care Center medication room containing emergency supplies of **Vicodin**.
14 The box in Respondent's purse contained five (5) tablets of **Vicodin (hydrocodone)**. Also found
15 in Respondent's purse were a total of ten (10) empty bubble packages for **Vicodin**.

16 19. Respondent admitted to the officer(s) that she had taken/stolen the plastic
17 medication box with the five (5) **Vicodin (hydrocodone)** tablets from the Care Center supply,
18 and that she had consumed 2½ pills from the total originally in that box while on duty at the Care
19 Center. The remaining ½ pill was found in her shirt pocket, and she admitted that she intended
20 to consume that remaining ½ pill later. Respondent said she had been taking **Vicodin** for about
21 two years, and admitted to being addicted. She admitted to taking 2-3 tablets a day if possible.
22 She admitted to her last prior use being three days prior to the March 10, 2007 date.

23 20. Respondent further admitted that she had taken or received an additional
24 supply of **Vicodin** from her mother, without a valid prescription in Respondent's name.

25 FIRST CAUSE FOR DISCIPLINE

26 (Dishonest Act(s))

27 21. Respondent is subject to disciplinary action under section 2878(j) of the
28 Code in that, as described in paragraphs 17-20 above, Respondent engaged in dishonest act(s).

1 SECOND CAUSE FOR DISCIPLINE

2 (Unlawful Acquisition of Controlled Substances/Dangerous Drugs)

3 22. Respondent is subject to disciplinary action under section 2878.5(a) of the
4 Code in that, as described in paragraphs 17-20 above, Respondent unlawfully acquired **Vicodin**
5 **(hydrocodone with APAP)**, a controlled substance and dangerous drug, without a prescription,
6 and by fraud, deceit, misrepresentation, or subterfuge, or by the concealment of a material fact, in
7 violation of Health and Safety Code section 11173, subdivision (a).

8 THIRD CAUSE FOR DISCIPLINE

9 (Unlawful Possession of Controlled Substances/Dangerous Drugs)

10 23. Respondent is subject to disciplinary action under section 2878.5(a) of the
11 Code in that, as described in paragraphs 17-20 above, Respondent unlawfully possessed **Vicodin**
12 **(hydrocodone with APAP)**, a controlled substance and dangerous drug, without a prescription,
13 in violation of section 4060 of the Code and/or Health and Safety Code section 11350.

14 FOURTH CAUSE FOR DISCIPLINE

15 (Unlawful Self-Administration/Use of Controlled Substances/Dangerous Drugs)

16 24. Respondent is subject to disciplinary action under section 2878.5(a) of the
17 Code in that, as described in paragraphs 17-20 above, Respondent unlawfully self-administered
18 and/or used and/or was under the influence of **Vicodin (hydrocodone with APAP)**, a controlled
19 substance and dangerous drug, without a prescription and/or absent administration to her by an
20 appropriate licensee, in violation of Health and Safety Code sections 11170 and 11550.

21 DISCIPLINARY CONSIDERATIONS

22 25. To determine the appropriate degree of discipline, if any, to be imposed on
23 Respondent, Complainant further alleges that, based on the conduct described in paragraphs 17-
24 20 above, on or about April 4, 2007, in *People v. Jamie Lynn Terry*, Case No. 130624 in Contra
25 Costa County Superior Court, Respondent was charged by Misdemeanor Complaint with three
26 misdemeanors: (1) violation of Business and Professions Code section 4060 (possession of a
27 controlled substance without a valid prescription); (2) violation of Penal Code section 403
28 (embezzlement); and (3) violation of Penal Code section 484/488 (petty theft).

26. On or about June 5, 2007, Respondent appeared and pleaded no contest to count (1) (unlawful possession pursuant to section 4060). Further proceedings on counts (2) and (3) were stayed, and entry of judgment on count (1) was deferred, pending a mandatory referral to Drug Diversion for eighteen (18) months. Respondent is scheduled to return to the Contra Costa County Superior Court on December 15, 2008 for a review of the status of her case.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians issue a decision:

A. Revoking or suspending Vocational Nursing License Number VN 200425,
issued to Jamie Lynn Terry (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: November 29, 2007.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant